

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA

Plaintiff,

v.

HENRI WETSELAAR, M.D.,

Defendant.

Case No. 2:11-CR-00347-KJD-CWH

ORDER

Presently before the Court for consideration is Defendant, Dr. Henri Wetselaar's Motion for Reconsideration of Dr. Wetselaar's Second Motion for a Hearing to Determine Mental Competency (#367).

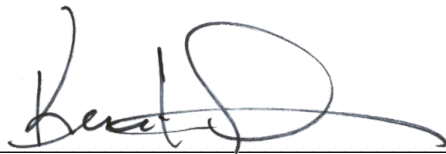
This Motion, filed one business day before the commencement of trial, requests this Court to reconsider its denial of Defendant's Second Motion for a Hearing to Determine Mental Competency (#348) filed December 9, 2016. During a December 14, 2016 hearing on the motion, the Court denied Defendant's request for a competency hearing based on the reasoning that, although Defendant is felt to have Alzheimer's, this is not sufficient to upset the findings the Court has previously made with regard to Defendant's ability to stand trial. Defendant waited 23 days to file the instant Motion on the eve of trial. He provides no explanation for why he waited until one business day before trial to move for reconsideration of the Court's December 14th hearing. Thus, the Motion is untimely.

Further, Defendant has failed to meet the proper standard for reconsideration. "Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence; (2) committed clear error or the initial decision was manifestly unjust; or (3) if there is an intervening change in controlling law." Frasure v. United States, 256 F. Supp. 2d 1180, 1183 (D. Nev. 2004) (quoting School Dist. No. 1J, Mutlnomah County, Or. v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir.

1 1993)). Here, there is no newly discovered evidence or any intervening change in controlling law.
2 Although not clear from Defendant's Motion, Defendant seems to be alleging this Court committed
3 clear error or that the December 14th decision was manifestly unjust. Based on this assumption, the
4 Defendant fails to provide information, case law, or any other authority or information to
5 demonstrate how this Court's ruling is clear error and how it is manifestly unjust. Defendant simply
6 reintroduces information previously provided to this Court in his December 9th motion.

7 Accordingly, IT IS THEREFORE ORDERED that Defendant's Motion for Reconsideration
8 of Dr. Wetselaar's Second Motion for a Hearing to Determine Mental Competency (#367) is **denied**.

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12 DATED this 6th day of January 2017

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14 Kent J. Dawson
15 United States District Judge
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